

Proposed Sexual Assault Policy of McGill University

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1. PREAMBLE

McGill University is dedicated to creating a safer environment for all members of its communities. McGill University recognizes that Sexual Assault is a serious offence with severe consequences that is systematically under-reported and under-addressed;¹ thus, addressing Sexual Assault is essential to promoting a safer campus. The true incidence of Sexual Assault is almost impossible to determine² given the many structural and social barriers that prevent those who have experienced it from coming forward. Specifically, people with marginalized identities, such as, but not limited to, women, trans and gender nonconforming people, queer people, people of colour and racialized people, Indigenous people, people with lower socioeconomic status, and people with disabilities, face further barriers in reporting.³ These barriers include, but are not limited to, institutional sexism, cissexism, heterosexism, racism, colonialism, classism, and ableism. The University additionally acknowledges that Sexual Assault occurs disproportionately to Indigenous, Black, and trans people, who also face greater barriers to support and recourse.^{4 5 6} Furthermore, the University acknowledges that Sexual Assault occurs

¹ Claire L'Heureux-Dubé, "Foreword: Still Punished for Being Female", *Sexual Assault in Canada*, Elizabeth A. Sheehy, ed., (2012: University of Ottawa Press), at 1-5.

² Holly Johnson, "Limits of a Criminal Justice Response: Trends in Police and Court Processing of Sexual Assault", *Sexual Assault in Canada*, Elizabeth A. Sheehy, ed., (2012: University of Ottawa Press), at 613-34.

³ The terms used throughout this Policy were chosen to reflect the language used in McGill's existing policies. However, they may not reflect the identities of all individuals. Individuals' self-identifications should be respected and used at all times; for example, someone might prefer to use the term 'disabled' as opposed to identifying as a 'person with disabilities'.

⁴ Victoria C. Olive, "Sexual Assault Against Women of Color", *Journal of Student Research* 1 (2012), at 1-9.

⁵ Emilia L. Lombardi, et al. "Gender violence: Transgender experiences with violence and discrimination." *Journal of homosexuality* 42.1 (2002): 89-101.

⁶ Scrim, Katie. "Aboriginal Victimization in Canada: A Summary of the Literature." *Victims of Crime Research Digest* No. 3 [Ottawa]. Department of Justice Canada. 2010. Web. 6 Feb. 2016.

disproportionately within university communities,⁷ and is committed to working against this phenomenon.

Fulfilling McGill's commitment to providing a safer campus requires proactive and reactive measures to address Sexual Assault. Proactive measures will aim to address issues of Sexual Assault through educational campaigns and information dissemination directed at changing attitudes about consent and Sexual Assault. These campaigns must take into consideration the complex and intersectional ways that systems of oppression - including, but not limited to, institutional sexism, cissexism, heterosexism, racism, colonialism, classism, and ableism - can influence discourses, interpretations, and responses to and experiences of Sexual Assault. These proactive measures will be complemented by reactive measures which ensure that people who have experienced Sexual Assault will have recourse to accessible, institutionalized, consequence-bearing University processes. Reactive measures include mechanisms for support that should be tailored to individuals' specific experiences and identities. This is especially important as the University recognizes the intense impact that experiences of Sexual Assault may have on one's mental health and ability to navigate this Policy.⁸ Reactive measures include the creation of processes by which Support, Interim Safety, or Recourse Measures may be sought. To achieve this, the University will uphold a list of explicit rights for those who have experienced Sexual Assault as outlined in Section 4.

Through this Policy, McGill commits to enacting measures that are uniquely Pro-Survivor in order to become a leader in the Canadian context for promoting a safer campus. This includes upholding the rights of those who have experienced Sexual Assault and fostering cultural change around conceptions and practices of consent. The University commits itself to respecting that the needs, values, and expectations of each person who experiences Sexual Assault are different, in part due to individual identities and the ways those identities are interpreted by society. Furthermore, responses to each case of Sexual Assault require a Non-Directional approach which respects the autonomy and rights of the person who has experienced Sexual Assault. In addition, the University commits to promoting cultural change by challenging common practices and beliefs relating to Sexual Assault, such as Victim-Blaming, which normalize Sexual Assault and harm those who have experienced it.

2. DEFINITIONS

2.1 Sexual Assault: any act of a sexual nature without Consent.

⁷ Elizabeth A. Armstrong, Laura Hamilton, and Brian Sweeney, "Sexual Assault on Campus: A Multilevel, Integrative Approach to Party Rape," *Social Problems*, Vol. 53, No. 4 (November 2006), at. 483-499.

⁸ Kaitlin A. Chivers-Wilson, "Sexual Assault and Posttraumatic Stress Disorder: A Review of the Biological, Psychological and Sociological Factors and Treatments." *McGill Journal of Medicine : MJM* 9.2 (2006): 111-118. Print.

2.2 Consent: an affirmative decision to engage in mutually agreed upon sexual activity, given by clear words or actions. Consent may not be inferred from silence, passivity, or lack of resistance alone. Consent to one form of sexual activity does not imply consent to other forms of sexual activity. The existence of a current or previous dating, marital, or sexual relationship is not sufficient to constitute consent to sexual activity. Consent should be continuously obtained and can be withdrawn at any point. It is the responsibility of any party initiating an action to gain the consent of the other(s) involved. Consent is not obtainable if there is any kind of coercion present, including force (physical, emotional, verbal, etc.), manipulation, blackmail, pressure, abuse of power relationships, or any combination thereof. Power relationships can exist due to formal hierarchical relationships and/or power dynamics implicit in social systems (including, but not limited to, institutional sexism, cissexism, heterosexism, racism, colonialism, classism, and ableism). Consent is not obtainable if the individual is incapacitated by alcohol, drugs, any other impairment, and/or is asleep or unconscious.

2.3 PWESA: Person Who Experienced Sexual Assault. The University acknowledges that PWESAs may self-identify using another term including, but not limited to, “survivor” or “victim.”

2.4 Pro-Survivor: a framework for addressing Sexual Assault that prioritizes the autonomy and empowerment of PWESAs. In the McGill context, this includes a commitment to upholding the PWESA rights enshrined in this policy.

2.5 Non-Directionality: an approach that neither encourages nor discourages the use of certain options over others. Rather, a Non-Directional approach provides information and resources in order to support a PWESA’s informed, autonomous decision.

2.6 Victim-Blaming: putting blame for the occurrence of Sexual Assault on PWESAs for any reason. Victim-Blaming can be implicit, such as through references to clothing choices, sexuality (including orientation, history, and character), or the perceived “riskiness” of behaviours or choices⁹. A non-Victim-Blaming response acknowledges that perpetrators alone make choices to violate the consent of others, and perpetrators are responsible for these choices. A non-Victim-Blaming response also acknowledges the role of cultural forces which normalize and tolerate Sexual Assault.

2.7 Intersectionality: an approach which recognizes that individuals may experience oppression differently due to their membership in different social and cultural groups. The combination of various systems of oppression, including but not limited to, institutional sexism, cissexism, heterosexism, racism, colonialism, classism, and ableism can and do affect individuals’ experiences.

2.8 Support Measures: resources and actions provided to or requested by the PWESA which do not act as disciplinary measures against, nor implicate the rights of, the Respondent(s). Such measures include, but are not limited to, access to counselling services, information provision, and academic or employment-related accommodation(s).

⁹George, William H., and Lorraine J. Martínez. "Victim blaming in rape: Effects of victim and perpetrator race, type of rape, and participant racism." *Psychology of Women Quarterly* 26.2 (2002): 110-119.

2.9 Interim Safety Measures: a temporary emergency action requested by the PWESA for safety reasons before the resolution of a Complaint Procedure. These actions may implicate the rights of the Respondent(s) subject to due process. These measures include, but are not limited to, no-contact orders.

2.10 Recourse Measures: actions taken against the Respondent(s) upon the outcome of a Complaint Procedure, or actions mutually consented upon by all parties upon the outcome of an Complaint Procedure. Recourse may include safety and disciplinary measures.

2.11 Complaint Procedure: a procedure of adjudicating and seeking recourse for a complaint of Sexual Assault allegedly committed by the Respondent(s). Any Complaint Procedure that affects the rights of Respondent(s) is subject to due process and fairness.

2.12 Complainant: a PWESA who engages with Complaint Procedures.

2.13 Respondent: a Member of the McGill Community against whom a complaint has been filed in accordance with this Policy.

2.14 Advocate: someone who has agreed to advocate on the behalf of either the Complainant or the Respondent. Advocates are not paid for their services.

2.15 Member of the McGill Community:¹⁰

- i) an employee or appointee (including a volunteer) of the University
- ii) anyone holding office under the University Charter and Statutes or who serves on any body or committee of the University;
- iii) anyone holding office on the board of an institution affiliated with McGill University or who serves on a committee established by such board; or
- iv) a student as defined in Section 1(a) of the Code of Student Conduct and Disciplinary Procedures.

3. OBJECTIVES

This Policy shall have as its objectives:

3.1 To preserve the rights of PWESAs, as outlined in Section 4 of this Policy.

3.2 To institutionalize Proactive Measures to be undertaken by the University and to create the Office of the Sexual Assault Resource Coordinator in order to foster a safer environment for the McGill community.

3.3 To mandate the creation of mechanisms defined in a Sexual Assault Procedural Guide (Section 7) which PWESAs may access when seeking support, safety, and/or recourse. All new and existing policies and procedures relating to sexual violence must reflect the rights granted to PWESAs in this Policy. They must also reflect the language and terminology used in this Policy.

3.4 To ensure that this Policy and its outcomes, as well as future policies, procedures, actions, or decisions, will incorporate an Intersectional approach.

4. PWESA RIGHTS¹¹

¹⁰ This definition is taken from [McGill's Policy on Safe Disclosure](#).

The University confers the following rights on the PWESA.

The PWESA has the right:

- i) To access Support, Interim Safety, and Recourse Measures under this Policy;
- ii) To have their confidentiality maintained, and to consent to any disclosures of information within the institution and to third parties;
- iii) To be treated with sensitivity, compassion, dignity, and respect;
- iv) To not to be blamed for the Sexual Assault, either implicitly or explicitly;
- v) To not be questioned about or required to disclose any information regarding their identity, such as but not limited to their gender, sexuality, race, ethnicity, indigeneity, socioeconomic class, disability, religion, cultural identity, preferred language, and other relevant identity categories;
- vi) To define the language used to describe their experiences and identities, including but not limited to pronouns, name, gender, sexuality, race, ethnicity, indigeneity, socioeconomic class, disability, religion, cultural identity, preferred language, and other relevant identity categories, and have this language used throughout the process;
- vii) To access information about on- and off-campus support, safety, and recourse options;
- viii) To have access to resources tailored to their particular experiences and identities, including but not limited to resources specifically for women, men, trans and gender nonconforming people, queer people, people of colour and racialized people, Indigenous people, people with lower socioeconomic status, and people with disabilities, who have experienced sexual assault. This also includes resources that engage various cultural approaches to sexual assault;
- ix) To access services relevant to this Policy in their preferred language, to the fullest extent possible. This may include access to interpretation services;
- x) To access this Policy in ways which are tailored to their disabilities and/or mental health conditions;¹²
- xi) To have child-care services of their choosing provided during times designated for services relevant to this Policy;
- xii) To freely choose which option(s) to access, in any combination or order, and receive assistance in pursuing their chosen option(s) if requested;
- xiii) To engage exclusively with those who have had specialized training in Sexual Assault sensitivity;
- xiv) To be represented by an advocate of their choosing;
- xv) To end participation in a procedure at any point;

¹¹ The rights in this section were inspired by several sources, such as the Ontario Women's Directorate's "Developing a Response to Sexual Violence: A Resource Guide For Ontario's Colleges and Universities (2013); and METRAC's "Sexual Assault Policies on Campus: A Discussion Paper" (2014).

¹² McGill University is committed to the implementation of Universal Design in [ASAP 2012-2017: Achieving Strategic Academic Priorities](#) (Action 2.2.2.); see also McGill University's [Policy Concerning the Rights of Students with Disabilities](#)

- xvi) To timely assessment of requests and complaints;
- xvii) To be informed of the outcome of requests and complaints;
- xviii) To appeal the outcome of requests and complaints.

5. SCOPE

- 5.1 Support Measures are accessible by all PWESAs who are Members of the McGill Community, regardless of who committed the offence and when or where it occurred.
- 5.2 Support Measures are accessible by all PWESAs, including those who are not Members of the McGill Community, if the Sexual Assault is alleged to have been committed by a Member of the McGill Community.
- 5.3 Interim Safety and Recourse Measures are accessible to PWESAs if the Sexual Assault is alleged to have been committed by a Member of the McGill Community.
- 5.4 There shall be no time limitation imposed on PWESAs in accessing Support, Interim Safety, and Recourse Measures.

6. PROACTIVE MEASURES

- 6.1 The University is committed to creating a safer environment by taking proactive approaches to Sexual Assault, including providing informational resources, running educational campaigns, and providing general and targeted training and presentations.
 - 6.1.1 All Proactive Measures must adhere to a consent-based definition of Sexual Assault, be Pro-Survivor, be compatible with PWESA Rights, take an intersectional approach, and be free from Victim- Blaming.
- 6.2 The Associate Provost (Policies, Procedures and Equity) (APPPE) is responsible for the implementation of all Proactive Measures.
- 6.3 The University shall create an Office under the APPPE to be maintained by at least one full-time coordinator position in order to aid in fulfilling the duties required under Section 6.
 - 6.3.1 The coordinator shall be titled the “Sexual Assault Resource Coordinator” (henceforth referred to as the “SARC”).
 - 6.3.2 The Office of the SARC (henceforth referred to as “the Office”) shall serve as the primary resource for issues regarding Sexual Assault.
 - 6.3.3 The Office will maintain a physical office space dedicated to serving PWESAs and their allies. The Office shall be designed with the principles of Universal Design in mind, to make it as accessible as possible to a broad range of users.¹³ It should also be private to ensure confidentiality.
 - 6.3.4 The Office shall oversee the implementation of all Proactive Measures.

¹³ This commitment to Universal Design principles implemented regarding physical accessibility is outlined in [ASAP 2012-2017: Achieving Strategic Academic Priorities](#) (Action 9.3.4.)

6.4 The Office shall ensure the availability and accessibility of a diversity of informational resources for the McGill Community and PWESAs. These resources shall include both peer and professional support resources. The resources shall also include information about Sexual Assault, Consent, Intersectionality, physical and mental health relating to Sexual Assault, and on- and off-campus resources. The Office must also provide Non-Directional information on Support, Interim Safety, and Recourse Measures available to PWESAs from the University in easily understandable language. Resources shall be made available online, in print, on the phone, and through one-on-one meetings.

6.5 The Office shall coordinate regular, visible, community-wide educational campaigns in order to combat the cultural normalization and tolerance of Sexual Assault. Campaigns will focus on creating supportive communities that counter the normalization and tolerance of Sexual Assault. These campaigns should educate on matters related to Consent, sensitization, Intersectionality, PWESA Rights, Support, Interim Safety, Recourse measures, and other on- and off-campus resources, as well as any other relevant subject-matter chosen by the Office.

6.6 The Office shall develop and offer training on the subject of Sexual Assault.

6.6.1 Training on the subject of Sexual Assault, Consent, Intersectionality, and intervention, designed to combat the normalization and tolerance of Sexual Assault, shall be made available to all members of the McGill community, including campus groups and their membership, on an optional basis.

6.6.2 Specialized training, implemented by the Office, shall be made mandatory to particular groups and individuals who are involved in creating, enacting or amending related policies or procedures, or who investigate or assess incidents of Sexual Assault.

6.7 The Office shall coordinate presentations by qualified personnel on the subject of Sexual Assault and Consent to be included in orientations for students, administrative and support staff, and faculty members.

7. SEXUAL ASSAULT PROCEDURAL GUIDE

7.1 The University shall strike a Working Group under the Office of the APPPE to develop a Sexual Assault Procedural Guide (hereafter known as “the Guide”). The Guide shall be compatible with all PWESA rights enshrined in this Policy. It shall also employ the language used in this Policy.

7.2 The Guide will detail the proactive and reactive measures the University is responsible for implementing, including how a PWESA may access Support, Interim Safety, and/or Recourse Measures from the University. Rules of procedure and evidence will be listed in detail and in easily understood language. The Guide must be compatible with due process.

7.3 The Working Group shall be established as a committee with at least half of the members being current McGill students, and shall be composed of the APPPE (chair), the SARC, and representatives of the Students’ Society of McGill University (SSMU), the Post-Graduate Students’ Society (PGSS), the Quebec Public Interest Research Group - McGill (QPIRG-

McGill), the Sexual Assault Centre of McGill Students' Society (SACOMSS), McGill labour unions, and members at large. Members should have specialized training in Sexual Assault sensitivity.

7.3.1 Considering that identities (for example, race, gender identity, and indigeneity) impact the incidence of Sexual Assault and determine available support and recourse, the APPPE shall ensure that the Working Group is constituted by members of diverse identities.

7.3.1.1 This could include reserving two seats, respectively, for members of campus organizations that represent marginalized groups, such as people of colour and racialized people, queer, trans and gender nonconforming people, Indigenous people, and people with disabilities.

7.4 The Guide shall be reviewed at least every three years by a Working Group of the same composition chaired by the APPPE as per Section 7.3.

8. COMPATIBILITY & REVIEW OF POLICY

8.1 Mechanisms that allow people to provide feedback on training, support, campaigns, and other outcomes of the Policy will be made available, accessible and anonymous.

8.2 All policies and administrative decisions must be compatible with PWESA rights.

8.3 This Policy shall be reviewed at least every three years by a Working Group under the APPPE. This Working Group shall take into consideration the feedback that is submitted, as outlined in 8.1.

8.3.1 This Working Group shall replicate the composition indicated in Section 7.3.